REMARKS

Claims 1-40 remain pending in the application. Reconsideration is respectfully requested in light of the following remarks.

Provisional Double Patenting Rejection:

The Examiner *provisionally* rejected claims 1-40 under the judiciary created doctrine of obviousness-type double patenting as being unpatentable over claims 1-61 of co-pending Application No. 10/055,649. Applicants traverse this rejection on the grounds that the Examiner has not stated a *prima facie* rejection.

According to MPEP 804.II.B.1, "the analysis employed in an obviousness-type double patenting determination parallels the guidelines for a 35 U.S.C. 103(a) rejection." This section of the MPEP also states that the same "factual inquires ... that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are employed when making an obviousness-type double patenting analysis." MPEP 804.II.B.1 also states that the Examiner should list the differences between **each** rejected claim and the claims of the other patent/application, and for **each** difference the Examiner should give the reasons why a person of ordinary skill in the art would conclude that the invention defined in the claim is an obvious variation of the invention defined in a claim of the other patent/application. Just like for a §103 rejection, these reasons should be supported by evidence of record.

In the present Office Action, the Examiner has provided a table that the Examiner claims "shows the similarity of the claimed inventions of application numbers 10/055,645 and 10/055,649." (Specifically, of claim 1 of the instant application and claim 18 of application number 10/055,649). All the Examiner has actually done is taken elements of claim 1 of the instant application and placed them side-by-side with large portions of claim 18 of 10/055,649. As can be seen from the Examiner's own table, there are many differences between the claims. The Examiner has not provided any reasons or evidence

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showing that the differences would be obvious. The Examiner has given no reason why a person of ordinary skill in the art would conclude that the invention defined in the claim of the instant application is an obvious variation of the invention defined in a claim of the other patent/application. Simply providing a side-by-side table comparing two claims is not a valid reason why a person of ordinary skill in the art would conclude that the invention defined in the claim is an obvious variation of the invention defined in a claim of the other patent/application. The only reason given by the Examiner is that the claims are "in the same context." However, two inventions being in the same context does not establish obviousness. The Examiner has not stated proper grounds for rejection. Nor has the Examiner specifically addressed **each difference** of **each claim** of the instant application compared to the claims of the other application. Instead, the Examiner improperly lumps all the claims together and does not address each specific difference. The Examiner clearly has not met the requirements stated in MPEP 804.II.B.1 to establish a *prima facie* obviousness-type double patenting rejection. Accordingly, Applicants respectfully request removal of the double patenting rejection of claims 1-40.

Section 103(a) Rejection:

The Examiner rejected claims 1-6, 8-18, 21 and 23-40 under 35 U.S.C. § 103(a) as being unpatentable over Teodosiu et al. (U.S. Publication 2002/0062375) (hereinafter "Teodosiu") and Badovinatz et al. (U.S. Patent 5,896,503) (hereinafter "Badovinatz"). Applicants respectfully traverse this rejection for at least the following reasons.

First, the rejection is improper because the Teodosiu reference is not prior art. More specifically, Teodosiu is a published U.S. patent application that was filed on Sep. 13, 2001, <u>after</u> Applicants' priority date of Jan. 22, 2001. Teodosiu does claim the benefit of two provisional applications both filed Nov. 22, 2000. However, the Nov. 22, 2000 filing date can only be used as Teodosiu's 35 U.S.C. § 103(a) prior art date for the subject matter that is common to both the published application and the provisional application. However, the material in Teodosiu relied upon by the Examiner is not

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actually present in either of Teodosiu's provisional applications. **In fact, examination of Teodosiu's two provisional applications shows that they vary greatly from Teodosiu's published utility application.** The subject matter on which the Examiner is relying on to reject Applicants' claims is not present in one of Teodosiu's provisional applications. Therefore, the rejection is improper. *See, In re Wertheim*, 209 USPQ 554 (CCPA 1981).

<u>**The Examiner has failed to rebut the above argument in the present Action.**</u>
In the present Action, the Examiner has simply copied large portions of Teodosiu's published utility application and of Teodosiu's provisional application number 60/252,685, and declared therewith that "Teodosiu's provisional application teaches the portions that Examiner relied upon to reject applicant claimed invention. Both of Teodosiu's Pub. 2002/0062375 and provisional application 60/252,658 provide description of a locator and tracking service for peer-to-peer resources using Resource Naming Service (RNS)." Applicants respectfully assert that the Examiner's copying of portions of Teodosiu's published utility application and of Teodosiu's provisional application number 60/252,685 fails to meet the requirement that the Examiner <u>show</u> the subject matter on which the Examiner is relying on to reject Applicants' claims is also present in one of Teodosiu's provisional applications. **The copying of entire portions of the applications and abovementioned declaration by the Examiner adds nothing new to the Examiner's previous assertions, and is thus not substantially responsive to the Applicants' above arguments. In fact, reading the portions copied by the Examiner shows that much of the teachings used by the Examiner in the rejection are clearly not present in the provisional.**

Specifically, the Examiner has still not shown that <u>every portion</u> of Teodosiu relied upon by the Examiner to reject Applicants' claims is found in one of Teodosiu's provisional applications. For example, in the rejection of claims 1-6, 8-18, 21 and 23-40, the Examiner relies on the following paragraphs and figures of Teodosiu: [0016], [0030 - 0037], [0045], [0053], [0073], [0074], [0077], [0094 - 0097]. **None of these paragraphs are found in either of Teodosiu's provisional applications.** These paragraphs from

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Teodosiu's published application are **not found** in the portion of Teodosiu's provisional application number 60/252,685 copied by the Examiner in the present Action. The Nov. 22, 2000 filing date can only be used as Teodosiu's 35 U.S.C. § 103(a) prior art date for the subject matter that is **common to both the published application and the provisional application**. *See, In re Wertheim*, 209 USPQ 554 (CCPA 1981). **Since portions of Teodosiu relied upon by the Examiner to reject the claims are not common to both Teodosiu's published application and one of Teodosiu's provisional applications, the rejection is improper.**

Secondly, Teodosiu's published application is not entitled to the Nov. 22, 2000 date as a section 103(a) prior art date unless at least one claim of Teodosiu's published application is supported (under 35 U.S.C. § 112) in the provisional application. Under 35 U.S.C. 119(e)(1), a published utility application is not entitled to its provisional application's filing date as a prior art date unless at least one claim of the published utility application is supported (per 35 U.S.C. § 112) in the provisional application. Since both of Teodosiu's provisional applications are much shorter informal papers as compared to Teodosiu's utility application, it is not at all clear that either one of Teodosiu's provisional applications provide full 35 U.S.C. § 112 support for any of the claims of Teodosiu's published utility application. The rejection is improper unless the Examiner can show that Teodosiu's published application has the necessary claim support in the provisional application to be entitled to the provisional application's filing date as its § 103(a) prior art date. *See also* M.P.E.P. § 2136.03(IV).

In response to this argument, the Examiner has stated that pages 3-4 of Teodosiu's provisional application no. 60/252,658 teach the limitations of claim 1 of Teodosiu's published application. However, a careful review of pages 3-4 of Teodosiu's provisional application no. 60/252,658 fails to reveal that this portion of Teodosiu's provisional application satisfies the written description and enablement requirements of 35 U.S.C. § 112 for claim 1 of Teodosiu's published application. Claim 1 of Teodosiu's published application recites:

1. A method comprising:

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receiving a peer resource request at a resource naming service (RNS) server, said peer resource request being received from a peer platform through a networking environment;

generating a peer resource response based on the peer resource request; and

returning the peer resource response to the peer platform through the networking environment, said peer resource response to enable the peer platform to access a peer resource corresponding to the peer resource request within the networking environment.

Pages 3-4 of Teodosiu's provisional application no. 60/252,658 do not describe the RNS server "receiving a peer resource request ... from a peer platform through a networking environment". Nor do pages 3-4 of Teodosiu's provisional application no. 60/252,658 describe "generating a peer resource response based on the peer resource request". Nor do pages 3-4 of Teodosiu's provisional application no. 60/252,658 describe "returning the peer resource response to the peer platform through the networking environment, said peer resource response to enable the peer platform to access a peer resource corresponding to the peer resource request within the networking environment." **Since the Examiner has not shown that Teodosiu's provisional application satisfies the written description and enablement requirements for any claim of Teodosiu's published application, the rejection is improper.** *See*, M.P.E.P. § 2136.03(IV). Applicants also note that public PAIR shows that claim 1 of Teodosiu's application has been amended to include other limitations that are not found in Teodosiu's provisional applications.

In the present Action, the Examiner has failed to address the Applicants' above argument that Teodosiu's published application is not entitled to the Nov. 22, 2000 date as a section 103(a) prior art date unless at least one claim of Teodosiu's published application is supported (under 35 U.S.C. § 112) in the provisional application.

The Examiner has the burden of proof to produce the factual basis for the rejection. *In re Warner*, 154 USPQ 173, 177 (C.C.P.A. 1967), *cert. denied*, 389 U.S. 1057 (1968). **Since the Examiner has not proven that both of the above**

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requirements have been met for Teodosiu's teachings to qualify as prior art, the Examiner has not met this burden of proof and the rejection is improper.

Furthermore, in regard to claim 1, the Examiner admits that Teodosiu "fails to teach at least a subset of the peer nodes are configured to participate in a peer membership protocol for joining or forming a peer group with other peer nodes." The Examiner asserts that Badovinatz teaches "a membership protocol for adding modes to become members of a domain in a distributed computing environment which inherently supports peer-to-peer computing." The Examiner goes on to state that it would have been obvious to "combine the teachings of Teodosiu and Badovinatz to allow peer nodes to use peer membership protocol for joining or forming a peer group with other peer nodes because it would manage membership of a domain of computers of a distributed computing environment." However, Applicants remind the Examiner that "to support the conclusion that the claimed combination is directed to obvious subject matter, either the references must expressly or impliedly suggest the claimed combination or the examiner **must present a convincing line of reasoning** as to why the artisan would have found the claimed invention to have been obvious in light of the teachings of the references..." *Ex Parte Clapp*, 227 U.S.P.Q. 972, 973 (Bd. Pat. App. & Int'f 1985).

Applicants note that Badovinatz does not mention peer-to-peer networking at all. Since the Examiner admits that Teodosiu does not teach the subject functionality, it is incumbent upon the Examiner to "present a convincing line of reasoning as to why the artisan would have found the claimed invention to have been obvious in light of the teachings of the references." However, Badovinatz only describes a mechanism for managing membership of a domain of **processors** in a distributed computing environment. Nowhere does Badovinatz "expressly or impliedly" suggest that this mechanism should be used in a peer computing system to enable peer nodes to participate in a peer membership protocol for joining or forming a peer group with other peer nodes. The Examiner states that it would have been obvious to combine Teodosiu's peer computing system with Badovinatz's management of membership of a domain of

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processors for the advantage of "manag[ing] membership of a domain of computers of a distributed computing environment." However, nowhere do Teodosiu or Badovinatz "expressly or impliedly" suggest that "manag[ing] membership of a domain of computers of a distributed computing environment" would result from applying Badovinatz's teachings in a peer computing system or would be desirable in Teodosiu's system.

Badovinatz teaches a central server node (e.g., see "name server node which controls the admission of new nodes", col. 1, lines 42-43) as a mechanism for managing membership of a domain of **processors** in a distributed computing environment. By their very nature, peer computing systems typically seek to avoid a central server node. **Thus, Badovinatz actually <u>teaches away</u> from a peer-to-peer system.**

Applicants respectfully assert that "manag[ing] membership of a domain of computers of a distributed computing environment" is not commensurate with the suggested combination of Teodosiu's "peer computing system" and Badovinatz's mechanism for managing membership of a domain of **processors** in a distributed computing environment. Further, as Badovinatz teaches a mechanism that provides the cited advantage for <u>processors</u> in a distributed computing environment, the Examiner provides no motivation to combine Teodosiu's "peer computing system" and Badovinatz's mechanism to obtain the cited advantage. In other words, the Examiner has only given a reason to use Badovinatz's system alone, not a reason to modify Teodosiu's system. Applicants therefore respectfully assert that the Examiner's "line of reasoning" that combining Teodosiu's "peer computing system" with Badovinatz's mechanism to "manage membership of a domain of computers of a distributed computing environment" is not a convincing line of reasoning as to why the claimed invention would have been obvious in light of the teachings of the references.

The Examiner stated that the distributed computing environment of Badovinatz "inherently supports peer-to-peer computing." The Examiner is clearly incorrect. "In relying upon the theory of inherency, the examiner must provide a basis in fact and/or technical reasoning to reasonably support the determination that the allegedly inherent

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characteristic <u>necessarily</u> flows from the teachings of the applied prior art." *Ex parte Levy*, 17 USPQ2d 1461, 1464 (Bd. Pat. App. & Inter. 1990) (emphasis in original). Badovinatz's system does not <u>necessarily</u> support peer-to-peer computing. In fact, as shown above, Badovinatz's reliance on a central server node specifically <u>teaches away</u> from a peer-to-peer system.

In (24)(C) of the present Office Action, the Examiner asserts that "In the remarks, applicant[s] argued in substance that...there is no motivation to combine the teachings of Teodosiu and Badovinatz." On p. 9 of the previous Action, and repeated on p. 5 of the present Action, the Examiner states that it would be obvious to combine the references "because it would manage membership of a domain of computers of a distributed computing environment", citing col. 1, lines 5-8, of Badovinatz in the previous office action. However, as noted above, this is simply a reason to use Badovinatz's system alone, not a reason to modify Teodosiu. Furthermore, Badovinatz's system is specifically not a peer-to-peer system, and actually <u>teaches away</u> from a peer-to-peer system. One of ordinary skill in the art would have no reason to apply the teaching of Badovinatz to Teodosiu.

In (24)(B) of the present Office Action, the Examiner asserts that "In the remarks, applicant[s] argued in substance that...the prior art does not teach peer-to-peer computing." Applicants have not so argued. Applicants have noted that the <u>Badovinatz</u> reference does not mention peer-to-peer networking at all, and proceeded from there to make further arguments, as noted above.

Thus, for at least the reasons presented above, the rejection of claim 1 is not supported by the cited prior art and removal thereof is respectfully requested. Similar remarks as those above regarding claim 1 also apply to claims 5, 12, 13 and 18.

Regarding claim 6, contrary to the Examiner's assertion, Teodosiu fails to disclose a peer computing system wherein one or more peer nodes in said peer group are configured to participate in a <u>peer resolver protocol</u> configured for use in

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sending search queries from one peer group member to another peer group member. Examiner cites Teodosiu, paragraph [0094], which in part states:

> ...external network traffic 125 is received by gate server 120. Gate server 120 can resolve resource addresses and instruct the senders on how to query the resource locator, or gate server 120 can resolve resource addresses and access the resources on behalf of the senders.

Note also that in Teodosiu, paragraph [0039], the functionality of gate server 120 of FIG. 1 is described:

> [0039] For a client device outside realm 150, external network traffic 125 is directed to realm 150 through gate server 120. Gate server 120, possibly in cooperation with registrar 110 and one or more RNS servers 130, determines one or more peer locations 140 within realm 150 where the resource is expected to be available, in accordance to the resource location process described above. Depending on whether the client device is compatible with the peer(s) hosting the resource, gate server 120 may simply respond with the location(s) and allow the client device to directly access the resource on its own. If the client device is not compatible, gate server 120 may take any number of actions, such as accessing the resource on behalf of the client device and responding as if the gate server were the resource.

Note that, in Figure 1 of Teodosiu, realm 150 is where the peers 140 disclosed by Teodosiu reside, and that the client devices are described as being outside realm 150. In paragraph [0094] and elsewhere, Teodosiu discloses a gate server that can receive external network traffic from client devices external to the "realm", resolve resource addresses, and either instruct the external senders (client devices) on how to query the resource locator, or alternatively access the resources on behalf of the senders. As Teodosiu teaches in [0094] and elsewhere that the gate servers resolve resource addresses for external network traffic from external senders (client devices), it is clear that the gate server disclosed by Teodosiu is not analogous to a peer resolver protocol configured for use in sending search queries from one peer group member to another peer group member.

In (24)(D) on page 18 of the present Office Action, the Examiner simply provides **a verbatim repetition of what the Examiner stated on page 10 of the previous Office**

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Action, with the only difference being the reference to pages 3-4 of Teodosiu's provisional application No. 60/252,685. The Examiner asserts "Teodosiu teaches peer nodes can cache the realm name" and "Teodosiu teaches gate server instructs peer nodes to use its own resource locator service to access the resource in addition to gate server can resolve resource addresses." **However, as shown above, this portion of Teodosiu fails to teach or suggest the limitations of claim 6. Again, the Examiner does not address the specific arguments made above. Furthermore, Applicants can find no teachings of those notions on pages 3-4 of Teodosiu's provisional application. Furthermore, paragraphs [0094 - 0097] of Teodosiu are not found in Teodosiu's provisional application and thus cannot be used to reject Applicants' claims.**

Thus, for at least the reasons presented above, the rejection of claim 6 is not supported by the cited prior art and removal thereof is respectfully requested. Similar remarks as those above regarding claim 6 also apply to claims 14 and 21.

Regarding claim 8, contrary to the Examiner's assertion, Teodosiu fails to disclose a peer computing system, wherein one or more peer nodes in said peer group are configured to participate in an endpoint routing protocol for enabling the peer nodes to request peer routing information to reach other peer nodes. Teodosiu clearly does not teach or suggest that, to locate resources, peers have to know <u>peer routing information</u>. Instead, Teodosiu, in paragraphs [0036] and [0037], discloses in reference to FIG. 1 a Resource Naming Service (RNS) server that receives a request for a resource from a peer, attempts to determine a location or locations for the resource and, if a location or locations for the resource are found, returns the location(s) to the requesting peer, which then is responsible for accessing the resource at (one of the) returned location(s). Teodosiu does not teach in this citation or elsewhere that the RNS server enables the peer nodes to request <u>peer routing information</u> to reach other peer nodes. Instead, Teodosiu teaches that the RNS server returns <u>location(s)</u> for a requested resource to the requesting peer, which is then responsible for accessing the resource at the provided location(s). Moreover, to locate a resource, Teodosiu teaches that a peer sends a request to an RNS server (which is not a peer, and thus sending a message to the RNS

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server would not require knowledge of "peer routing information"), which returns a location or locations for the resource.

In (24)(E) on page 18 of the present Office Action, the Examiner refers again to paragraphs [0033 - 0037] of Teodosiu's published utility application, and refers to pages 3-4 of Teodosiu's provisional application No. 60/252,685. **However, as shown above, this portion of Teodosiu's published utility application fails to teach or suggest the limitations of claim 8. The Examiner did not address the specific arguments made above.** The Examiner simply asserts that "Teodosiu teaches RNS server keeps current network locations or IP addresses of all peers." Applicants cannot find the teaching "[the] RNS server keeps current network locations or IP addresses of all peers" in the cited portions of the Teodosiu references. Instead, in paragraph [0035], Teodosiu discloses that "Each RNS server 130 tracks the current network location (in terms of IP addresses and IP port numbers)...of all peers <u>assigned to that RNS server</u>." The Examiner further asserts that "Teodosiu teaches peer nodes can access to locate IP addresses to reach other peer nodes." Applicants cannot find that teaching in the cited portions of the Teodosiu references. Instead, Teodosiu teaches that the RNS server returns <u>location(s)</u> for a requested resource to the requesting peer, **which is then responsible for accessing the resource at the provided location(s). Teodosiu does not teach or suggest in this citation or elsewhere that the RNS server enables the peer nodes to request <u>peer routing information</u> to reach other peer nodes.** Requesting and returning a location for a requested resource is clearly not the same as requesting and returning routing information to other peer nodes. Moreover, to locate a resource, Teodosiu teaches that a peer sends a request to an RNS server (which is not a peer, and thus sending a message to the RNS server would not require knowledge of "peer routing information"), which returns a location or locations for the resource. Nothing in Teodosiu teaches or suggests that peer nodes request <u>peer routing information</u>, let alone one or more peer nodes in a peer group being configured to participate in an endpoint routing protocol for enabling the peer nodes to request peer routing information to reach other peer nodes.

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Furthermore, paragraphs [0033 - 0037] of Teodosiu are not found in Teodosiu's provisional application and thus cannot be used to reject Applicants' claims.

Thus, for at least the reasons presented above, the rejection of claim 8 is not supported by the cited prior art and removal thereof is respectfully requested. Similar remarks as those above regarding claim 8 also apply to claims 16 and 23.

Regarding claim 9, contrary to the Examiner's assertion, Teodosiu fails to disclose a peer computing system, wherein at least a subset of the peer nodes are configured to participate in a peer information protocol for enabling the peer nodes to learn about other peer nodes' capabilities and status. In (24)(F) on page 18 of the present Office Action, the Examiner simply provides a verbatim repetition of what the Examiner stated on page 10 of the previous Office Action, with the only difference being the reference to pages 3-5 of Teodosiu's provisional application No. 60/252,685. The Examiner asserts "Teodosiu teaches peer nodes can identify peer resources within its realm. Moreover, peer platform can publish peer resources by placing the resources in publication directory." Again, Applicants fail to see where, in the cited paragraphs or elsewhere, Teodosiu teaches or suggests that an RNS server enables peer nodes to learn about other peer nodes' capabilities and status. The cited portions of Teodosiu do not teach anything about peer nodes participating in a peer information protocol for enabling the peer nodes to learn about other peer nodes' capabilities and status. Furthermore, paragraphs [0031 - 0032] and [0073] of Teodosiu are not found in Teodosiu's provisional application and thus cannot be used to reject Applicants' claims.

Thus, for at least the reasons presented above, the rejection of claim 9 is not supported by the cited prior art and removal thereof is respectfully requested. Similar remarks as those above regarding claim 9 also apply to claims 17 and 24.

Regarding claim 15, the cited art does not teach or suggest means for member peer nodes in said peer group to bind to a pipe endpoint. In regard to claim

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15, the Examiner originally only referred to the rejection of claims 1-6 and 8-11. However, none of claims 1-6 and 8-11 recite means for member peer nodes in said peer group to bind to a pipe endpoint. In (24)(G) on page 18 of the present Office Action, the Examiner asserts "Teodosiu teaches peer nodes within realm access peer resources on the network (page 3, paragraph [0037], or pages 3-4 of Teodosiu's provisional application)." Simply stating that peer nodes within a realm may access peer resources on the network clearly does not teach or suggest anything like *means for member peer nodes in said peer group to bind to a pipe endpoint.* Teodosiu, in paragraphs [0036] and [0037], discloses in reference to FIG. 1 a Resource Naming Service (RNS) server that receives a request for a resource from a peer, attempts to determine a location or locations for the resource and, if a location or locations for the resource are found, returns the location(s) to the requesting peer, which then is responsible for accessing the resource at (one of the) returned location(s). **Teodosiu is silent on how the peer actually accesses the resource. The cited portions of Teodosiu do not teach or suggest anything like the notions of pipe endpoints, binding to pipe endpoints, or means to bind to pipe endpoints.** Applicants can find nothing in the cited portions of Teodosiu that teach or suggest anything like what is recited in claim 15. **Furthermore, in the Office Action of April 4, 2005, the Examiner <u>acknowledged</u> that Teodosiu does not teach binding to a pipe endpoint.**

Furthermore, paragraph [0037] of Teodosiu is not found in Teodosiu's provisional applications and thus cannot be used to reject Applicants' claims.

Thus, for at least the reasons presented above, the rejection of claim 15 is not supported by the cited prior art and removal thereof is respectfully requested.

Furthermore, the Examiner has failed to attempt to state a *prima facie* rejection for claims 12-14, 16-18, 21 and 23-40. The Examiner only states that these claims have similar limitations to claims 1-6 and 8-11 and are being rejected under the same rationale as claims 1-6 and 8-11. **However, claims 12-14, 16-18, 21 and 23-40 have a different scope than claims 1-6 and 8-11. Since the Examiner has failed to address the differences between the claims, the Examiner's rejection of claims 12-**

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14, 16-18, 21 and 23-40 is improper. The following is an example of such differences that the Examiner fails to address in claims 29 and 38:

[a] peer node <u>broadcasting</u> a <u>peer discovery message</u> on the peer-to-peer network.

The following is another example of such differences that the Examiner fails to address in claims 30, 35, 39 and 40:

[a] peer node <u>broadcasting</u> a <u>peer group discovery message</u> on the peer-to-peer network.

In (24)(H) on page 18 of the present Office Action, the Examiner asserts "Teodosiu teaches peer nodes can use a variety of network transmission protocols including broadcasting peer discovery message or peer group discovery message on the peer-to-peer network (Fig 1; page 9, paragraph [0124], or pages 3-4 of Teodosiu's provisional application)." Paragraph [0124] states in part:

> …the elements in realm 150 communicate with one another using any of a variety of network transmission protocols, such as the User Datagram Protocol (UDP) or the Transmission Control Protocol (TCP), and any of a variety of application protocols, such as a proprietary protocol, the Hypertext Transfer Protocol (HTTP), the File Transfer Protocol (FTP), or the like.

Applicants note that supporting a <u>network transmission protocol</u> is distinctly different than the notion of <u>broadcasting particular messages</u> (e.g., a peer discovery message and a peer group discovery message) as recited in claims 29 and 38 and claims 30, 35, 39 and 40 respectively. A specific <u>message</u> is not a transmission protocol. A specific message may be broadcast using a variety of <u>network transmission protocols</u>. The cited portion of Teodosiu does not teach or suggest the notions of *broadcasting a* *peer discovery message on a peer-to-peer network* nor of *broadcasting a peer group* *discovery message on a peer-to-peer network*. In any case, disclosing that peer nodes can use a variety of network transmission protocols does not teach or suggest the transmission of particular messages over those protocols.

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Furthermore, paragraph [0124] of Teodosiu is not found in Teodosiu's provisional applications and thus cannot be used to reject Applicants' claims. More specifically, Applicants can find nothing in the cited portion of Teodosiu's provisional application that supports the notion that "peer nodes can use a variety of network transmission protocols".

Furthermore, the differences cited above were given as examples. **Other differences can readily be noted between claims 12-14, 16-18, 21 and 23-40 and claims 1-6 and 8-11. Since the Examiner has not addressed these differences, the Examiner has not stated a proper *prima facie* rejection for claims 12-14, 16-18, 21 and 23-40.**

Applicants also assert that numerous ones of the dependent claims recite further distinctions over the cited art. However, since the rejections have been shown to be unsupported for the independent claims, a further discussion of the dependent claims is not necessary at this time.

Allowable Subject Matter:

The Examiner has indicated that claims 7, 19, 20 and 22 would be allowable if rewritten to overcome the rejection under 35 U.S.C. § 112 and to include all limitations of the base claim and any intervening claims. On page 2 of the present Action, the Examiner has accepted the amendments to claims 7, 19, 20 and 22 and withdrawn the rejection under 35 U.S.C. § 112. Applicants assert that claims 7, 19, 20 and 22 are in condition for allowance in their present form.

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CONCLUSION

Applicants submit the application is in condition for allowance, and an early notice to that effect is requested.

If any fees are due, the Commissioner is authorized to charge said fees to Meyertons, Hood, Kivlin, Kowert, & Goetzel, P.C. Deposit Account No. 501505/5181-82104/RCK.

Respectfully submitted,

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Date: __March 30, 2007__

10/055,645 (5181-82104/P5880)   Meyertons, Hood, Kivlin, Kowert & Goetzel., P.C.

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